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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,536	09/26/2003	Martyn Hurn	TK8778US	3722

7590

10/06/2004

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EXAMINER
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BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/672,536

Applicant(s)

HURN, MARTYN

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

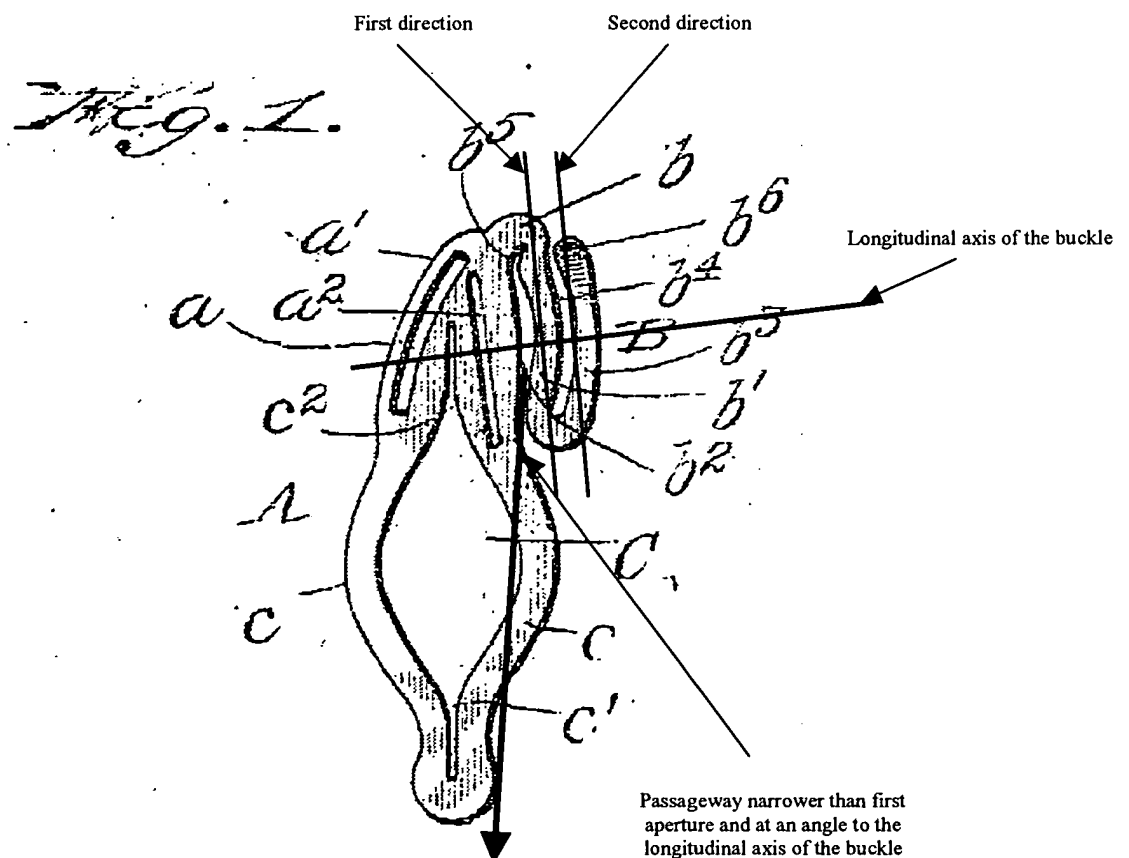
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. §102(b) as being clearly anticipated by Nonnemacher (US 837103).

Nonnemacher (figure 1 reproduced below with added identifiers) teaches a buckle comprising: a main body, the main body including a first connection means including at least one bar integrally formed with the main body of the buckle, and defining at least one elongate slot, a, therein adapted for receiving a length of webbing or the like; and a securing portion, the securing portion including a second connection means including a first arm, b', integrally formed with the main body of the buckle, wherein the first arm has proximal and distal ends, the proximal end being attached to the main body of the buckle and the first arm extending from the main body of the buckle in a first direction and defining a first aperture, b2, therewith, and the first aperture having an opening at one end, facing in the first direction, through which a captive loop of webbing may be guided into the first aperture if so desired; wherein a second arm, b3, is integrally formed with the main body of the buckle, wherein the second arm, b3, extends from the first arm, b', in a second direction, substantially opposite to the first direction, and defines a second aperture, b4, therewith, wherein the second aperture has an opening at one end, facing in the second direction, adapted to be inherently capable of receiving the captive loop of webbing.

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The captive loop of webbing is not claimed in combination and the buckle of Nonnemacher is fully capable of receiving a captive loop if so desired. The two "means" statements, "first connection means" (claim 1, line 2) and "second connection means" (claim 1, line 7) are not accorded interpretation under 35 U.S.C. 112, sixth paragraph because each is followed by language specifically describing the structure performing the function. The elongated slots, a, a2, are considered to be defined within two bars with the remaining portion defines a grip portion, c. The web passageway leading to the first aperture, b2, is considered inclined relative to an axis of the buckle and is narrower than the first aperture.



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While the device of Nonnemacher is not disclosed as used upon a rucksack, the device can inherently be used upon a rucksack if so desired and the rucksack is not claimed in combination.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over Nonnemacher (US 837103) in view of Ginnel (US 2267235).

Nonnemacher (figure 1 reproduced below with added identifiers) teaches a buckle comprising: a main body, the main body including a first connection means including at least one bar integrally formed with the main body of the buckle, and defining at least one elongate slot, a, therein adapted for receiving a length of webbing or the like; and a securing portion, the securing portion including a second connection means including a first arm, b', integrally formed with the main body of the buckle, wherein the first arm has proximal and distal ends, the proximal end being attached to the main body of the buckle and the first arm extending from the main body of the buckle in a first direction and defining a first aperture, b2, therewith, and the first aperture having an opening at one end, facing in the first direction, through which a captive loop of webbing may be guided into the first aperture if so desired; wherein a second arm, b3, is integrally formed with the main body of the buckle, wherein the second arm, b3, extends from the first arm, b', in a second direction, substantially opposite to the first direction, and defines a second aperture, b4, therewith, wherein the second aperture has an opening at one end, facing in the second direction,

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adapted to be inherently capable of receiving the captive loop of webbing. The captive loop of webbing is not claimed in combination and the buckle of Nonnemacher is fully capable of receiving a captive loop if so desired. The two “means” statements, “first connection means” (claim 1, line 2) and “second connection means” (claim 1, line 7) are not accorded interpretation under 35 U.S.C. 112, sixth paragraph because each is followed by language specifically describing the structure performing the function. The elongated slots, a, a2, are considered to be defined within two bars with the remaining portion defines a grip portion, c. The web passageway leading to the first aperture, b2, is considered inclined relative to an axis of the buckle and is narrower than the first aperture. While the device of Nonnemacher is not disclosed as used upon a rucksack, the device can inherently be used upon a rucksack if so desired and the rucksack is not claimed in combination. The difference for each is that the buckle is not bent along a transverse bend line at an acute angle. However, Ginnel (figures 2, 3) teaches a similar buckle including bending the buckle along a transverse bent portion 9 at an acute angle so as to provide an offset connection between the first connection 5, 6 for the webbing and the second connection 14 for the captive loop so as to provide easier manipulation. As it would be advantageous to more easily manipulate the fastener of Nonnemacher, it would have been obvious to modify the buckle of Nonnemacher so as to be bent along a transverse bend line at an acute angle in view of Ginnel teaching such structure to be desirable for easier manipulation of the buckle and webbing.

### *Claim Objections*

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Claims 1, 3, 4, 7 and 8 are objected to because of the following informalities: The term “the longitudinal axis” (claim 1, line 16) lacks clear antecedent basis. The remaining claims are objected to because they depend from an objected to claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, 4, 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation “significantly narrower” (claim 1, line 16) provides no notice to one of ordinary skill as to what bounds should be placed upon the term “significantly”. The specification is silent as to what would encompass “significantly narrower”. Since there is no basis to determine what relative dimension would fall within or be excluded from the limitation “significantly narrower”, the limitation fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Additionally, the term “the second direction” (claim 1, line 18) lacks clear antecedent basis and the use of “a second direction” (claim 1, line 20) appears as a double inclusion so that the claim does not particularly point out and distinctly claim the subject matter applicant regards as the invention. The remaining claims are indefinite because they depend from an indefinite claim.

***Allowable Subject Matter***

Claims 3, 4 and 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of

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the base claim and any intervening claims and are amended to obviate the claim objection identified above.

### ***Response to Arguments***

Applicant's arguments filed July 8, 2004 have been fully considered but they are not persuasive.

Applicant argues that the device of Nonnemacher fails to have a grip portion. This is not persuasive because the portions, c, can inherently act as a grip portion if so desired. Applicant additionally argues the first web passageway as being significantly narrower than the first aperture and that the passageway must be angled and that the buckle of Nonnemacher lacks such structure. As indicated above in the rejection under 35 U.S.C. 112, second paragraph, there is no basis in the application to determine the limits on the term "significantly narrower" and therefore no basis to exclude the narrower passageway shown by Nonnemacher from falling within the scope of the limitation and as shown above in the figure the passageway is considered inclined to the longitudinal axis of the buckle. Applicant's claim provides no basis to exclude the showing made above. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the narrow passageway would trap the webbing and prevent it from escaping the first opening) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***



Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

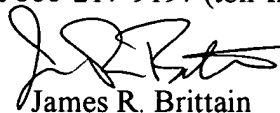
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (703) 308-2222. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB